

AGENTS OF SCHOONER METAMORA.

MARCH 23, 1860.—Ordered to be printed.

Mr. ELIOT, from the Committee on Commerce, made the following

REPORT.

The Committee on Commerce, to whom was referred the petition of Pardon T. Hammond, one of the owners of the schooner "Metamora," of North Kingston, Rhode Island, claiming fishing bounty for that vessel, submit the following report:

That the provisions of the bounty laws for codfishing are plain and specific. In the case of the vessel in question, the claim has been before the committee at previous sessions of Congress, but no action appears to have been taken. The whole question is embraced in the following letter of the Secretary of the Treasury. Your committee are not disposed to disturb the decisions already made by the department, and instruct me to make an adverse report.

TREASURY DEPARTMENT, *April 28, 1856.*

SIR: I have the honor to acknowledge the receipt of your letter of the 23d instant, with the petition of Pardon T. Hammond, of North Kingston, Rhode Island, setting forth that the collector of Newport, where the schooner Metamora, belonging to him and others, had been duly enrolled and licensed for the codfishery for the season of 1852, had duly represented that said vessel was, conformably to law and the settled usages of the business, fully and clearly entitled to bounty, and recommended that it should be allowed and paid; but the Secretary of the Treasury has thought proper to take a different view of the matter, and to decide that said vessel was and is not entitled to such bounty. And the memorialist requests that the vouchers on file in the Treasury Department may be examined and a special act passed for his relief, and you request that the papers in this case may be enclosed to you.

The original proofs in support of the claim to bounty for the schooner Metamora for the season of 1852 have never been transmitted to this department by the collector of Newport. In this as in other similar cases of claims to fishing bounty to vessels employed in the bank and other codfisheries, the proofs are required by law to be presented to the collectors of the districts in which such vessels are licensed, who examine and decide upon their efficiency in the first instance, and in the ordinary course they are not subjected to the revision of this department

until after the bounty is paid, when the vouchers showing such payments are transmitted by the collector to be placed to his credit.

In the present case the bounty would probably have been paid by the collector of Newport, for the season of 1852, on or after the 31st December of that year, but for the interposition of the mate of the *Metamora*, as set forth in the letter of the collector, of which a copy is enclosed, dated 7th January, 1853, (No. 1.) From the tenor of the reply of my predecessor, dated 11th January, (No. 2,) it appears that the mate alleged on oath that traffic was carried on in rum, tobacco, dry goods, &c., between the *Metamora* and persons living on the coasts of Labrador and Nova Scotia, which charge was rebutted by the affidavit of the master, &c. These papers appear to have been returned to the collector for the purpose of investigation by the United States district attorney for the reasons suggested in the letter of the department. That letter then goes on to state that it appears the vessel went into Molasses harbor, on the coast of Nova Scotia, where the fish previously taken were cured, and where she remained a few weeks for that purpose. My predecessor instructs the collector that such period employed in the harbor cannot be lawfully taken into the computation of time required for bounty; that unless the vessel appears by the log-book to have been actually employed in the codfishery at sea, the time required by law previous to her arrival at that harbor, the allowance cannot be made.

From the next letter of the collector (No. 3,) dated January 26, 1853, it seems that the district attorney found no sufficient grounds for proceeding against the *Metamora*, and the collector reports that it appeared, on examination of the log-book, that the whole time employed, as set forth in the Captain's statement, (enclosure of No. 3,) is three months and twenty-one days. Deducting the three or four weeks—the prices and number and days not being stated—which were spent in Molasses harbor, this vessel had clearly not brought herself within the law which authorizes bounty to be paid to vessels having ten men or more employed in the codfishery at sea three and one-half months at least.

In replying to this report of the collector, my predecessor, on the 28th of January, 1853, (No. 4,) suggests that the time employed by the boats of a vessel in fishing at sea may be regarded as a fishery carried on at sea within the bounty laws; but that the time employed by the crew on shore in curing the fish, after the cure was ended, cannot be regarded as time employed at sea within the terms of the law.

On the 17th of May, 1853, the collector of Newport addressed me on this subject, (No 5,) enclosing a copy of the oath of the master of the *Matamora*, (enclosure of No. 5,) to which I replied, on the 21st of May, (No. 6,) quoting the terms of the law, suggesting that if the practice had arisen of allowing time spent in harbors to be computed as having been employed at sea in the codfishery, it must be, in charity, presumed to have been done upon such affidavits without information of the facts; and directing the collector to retain all the papers for future consideration, whether the master should not be prosecuted for fraud and perjury under the 9th section of the law. This letter was answered by the collector on the 24th of May, 1853, (No. 7,) setting

forth the practice that had been adopted of regarding all the time from the period of departure until arrival at the home port of the vessel as being technically at sea, and that it had been usual to grant the allowance accordingly. It does not appear from the records of the department that this letter was replied to.

On the 15th of June, 1853, the present collector of Newport addressed me a letter, (No. 8,) enclosing a statement of that date from the Hon. B. B. Thurston, Charles P. James, and Philip Allen, to the effect that it has always been considered in Rhode Island that the time of curing fish has been considered a part of the time of which the fishermen are obliged to be at sea, provided that the men are all on board of the vessel in order to entitle them to bounty. (See enclosure No. 8.)

This letter was answered on the 17th of June, (No. 9,) and it was stated that the practice alleged to have prevailed in New England, of allowing the time spent on shore in curing fish on shore, as having been employed at sea, according to the terms of the bounty laws, had been mistaken by his predecessor on the authority of the collector of Barnstable, whose information on the subject of bounty allowances to fishing vessels was most extensive. The argument of W. G. Hammond, esq., in support of this claim, also referred to, is enclosed, marked No. 10.

The correspondence herewith transmitted, of which the foregoing is a synopsis, will put you in possession of all the facts. I have not requested the collector of Newport to send the papers written, but will cheerfully do so, on your expressing a desire to examine them.

Permit me to add, in regard to the principle on which this claim was registered, that this department has invariably excluded from the computation of the time required by the bounty laws, every period passed in harbor, whether by collision, accident, stress of weather, or any other occasion, because such periods are not "actually employed at sea." Such has been the construction given to these terms by this department from 1791, when the original bounty act was passed, to the present time; and this construction has been fully sustained by the courts of the United States, as reference to the case of the Harriet, reported in 1 Story's Circuit Court Reports, will show. In that case forfeiture was enforced against a fishing vessel for a false statement of the time employed at sea, upon its being proved that it included a certain time spent in harbor.

The allowance and bounty to vessels employed in the codfishery in the Straits of Bellisle is urged as inconsistent with this construction. The case of these vessels was presented to this department immediately after the passage of the original bounty act of 1791. It appeared that the fishing vessels so employed anchored on the coast of Labrador—generally in some harbor—and sent the crews in their boats into the open sea to catch the fish, such being the only safe and practicable mode of fishing on that coast. It was then decided, and the decision has ever since been acquiesced in, that during the time the crews of the vessels were so employed, it should be regarded as being actually employed at sea, that being the place of their employment. It is obviously an entirely different state of things from placing a fishing vessel in harbor for the purpose of employing her crew on shore in any pursuit,

whether belonging to the business of fishery or otherwise. To recognize the former, is a substantial execution of the terms of the act; to sanction the latter, would be an entire perversion of those terms from their fair meaning and import.

It may not be regarded as out of place to add, in regard to claims for fishing bounty allowances for seasons long passed, that by the express term of the law, five eighth parts of the bounty belong to the crew of the vessel, and only three-eighths to the owner. They are authorized to be paid to the owner, and a lien exists upon the vessel for a certain period in favor of the crew, to enforce payment of their earnings on board. If the bounty is paid to the owner after the lapse of six months from the close of the season, the crew have no such security for its due payment. Before examining stale claims to fishing bounties, this department has felt itself bound to require the owners to show either that they have allowed the fishermen their share of such bounty, or possess some other equitable right to represent their five-eighths of the amount; otherwise a decision in favor of the claim would only give money to the owners that does not belong to them.

Very respectfully, your obedient servant,

JAMES GUTHRIE,
Secretary of the Treasury.

Hon. E. B. WASHBURN,
House of Representatives.